

CALDWELL LESLIE & PROCTOR, PC
MICHAEL D. ROTH, State Bar No. 217464
roth@caldwell-leslie.com
ALISON MACKENZIE, State Bar No. 242280
mackenzie@caldwell-leslie.com
725 South Figueroa Street, 31st Floor
Los Angeles, California 90017-5524
Telephone: (213) 629-9040
Facsimile: (213) 629-9022

FROSS ZELNICK LEHRMAN & ZISSU, P.C.
JAMES D. WEINBERGER (admitted *pro hac vice*)
jweinberger@fzlz.com
LAURA POPP-ROSENBERG (admitted *pro hac vice*)
lrosenberg@fzlz.com
ANNA P. LEIPSIC (admitted *pro hac vice*)
aleipsic@fzlz.com
866 United Nations Plaza, 6th Floor
New York, New York 10017
Telephone: (212) 813-5900
Facsimile: (212) 813-5901

Attorneys for Plaintiff ATHLETA, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

ATHLETA, INC., a Delaware
corporation,

Plaintiff,

v.

PITBULL CLOTHING CO., INC. d/b/a
ATHLETICA.NET, CORY PECK and
DOES 1-10,

Defendants.

Case No. CV12-10499-CAS(FMOx)

**[PROPOSED] ORDER FOR
PRELIMINARY INJUNCTION**

1 Pursuant to the Court's January 7, 2013 order granting Plaintiff Athleta,
2 Inc.'s ("Plaintiff" or "Athleta") Motion for a Preliminary Injunction, Defendants
3 Pitbull Clothing Co., Inc. and Cory Peck ("Defendants"), their officers, directors,
4 agents, representatives, successors or assigns, and all persons acting in concert or in
5 participation with any of them, are immediately enjoined pending trial in this action
6 from:

7 (a) counterfeiting Plaintiff's ATHLETA, PILAYO, VELOCITEK
8 and Pinwheel Design trademarks (the "Athleta Marks");

9 (b) seeking to register the Athleta Marks or any derivation or
10 colorable imitation thereof, or any name or mark that is confusingly similar thereto
11 in the U.S. Patent & Trademark Office or any state trademark office;

12 (c) making or employing any other commercial use of any of the
13 Athleta Marks or any name or mark that is confusingly similar thereto, including but
14 not limited to the names and marks ATHLETICA, PILAYO, VELOCITEK or a
15 pinwheel design (collectively, "Prohibited Marks") in a manner that is likely to
16 cause confusion or mistake in the mind of the trade or public or to deceive the trade
17 or public into believing that Defendants' activities are in any way sponsored,
18 licensed, endorsed, authorized by or affiliated or connected with Athleta, or
19 originate from Athleta, including but not limited to the following:

20 (i) using the Prohibited Marks on any article of clothing;

21 (ii) using the Prohibited Marks in connection with the
22 promotion, marketing, advertising or sale of clothing;

23 (iii) to the extent Defendants utilize the URL athletica.net for
24 any purpose, refraining from:

25 (A) the use of any graphic, textual or other design
26 elements on the athletica.net website that are similar to Athleta's website;

1 (B) offering any goods on the athletica.net website that
2 bear a strong resemblance to any goods offered by Athleta in its stores or on its
3 website at gap.athleta.com, including but not limited to any women's activewear,
4 fitness and fitness-related apparel, and accessories; and

5 (C) advertising or using trade dress that resembles
6 Athleta advertisements and trade dress, including but not limited to by making any
7 "flash offers" through companies such as Groupon, Living Social, Plum District and
8 the like;

9 (d) purchasing any of the Prohibited Marks in connection with any
10 sponsored advertising on the Internet or using any of the Prohibited Marks in any
11 source code or otherwise using the Prohibited Marks such that a search for Athleta
12 on the Internet will cause any domain name or website of Defendants to appear in
13 search results;

14 (e) doing any other acts or things calculated or likely to cause
15 confusion or mistake in the mind of the public or to lead purchasers or consumers or
16 investors into the belief that the products or services promoted, offered or sponsored
17 by Defendants emanate from or originate with Athleta, or are somehow sponsored,
18 licensed, endorsed, authorized by or affiliated or connected with Athleta, or
19 originates from Athleta; and

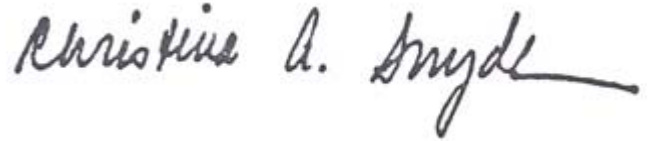
20 (f) aiding, assisting or abetting any other party in doing any act
21 prohibited by sub-paragraphs (a) through (e) above.

22 Defendants shall file with the Court and serve upon Athleta's counsel within
23 fifteen (15) days after entry of this preliminary injunction a report in writing under
24 oath, setting forth in detail the manner and form in which they have complied with
25 the above, including but not limited to a detailed explanation of the status and
26 location of any items of clothing or transfers of the ATHLETICA and/or Pinwheel
27 Design Marks.
28

1 The Court finds that a nominal bond in the amount of \$1,000.00 is
2 appropriate.

3 IT IS SO ORDERED.

4 Dated: January 22, 2013



5 The Honorable Christina A. Snyder
6 United States District Judge

7
8 SUBMITTED BY:

9 CALDWELL LESLIE & PROCTOR, PC

10 &

11 FROSS ZELNICK LEHRMAN & ZISSU, P.C.

12
13 By: _____
14 JAMES D. WEINBERGER

15 Attorneys for Plaintiff Athleta, Inc.
16
17
18
19
20
21
22
23
24
25
26
27
28